

## **MAKING UNUSED SCHOOL FACILITIES AVAILABLE FOR PUBLIC CHARTER SCHOOLS**

### **Background**

Over the past 10 years, the District has witnessed a rapid growth in public charter schools. In 1996, the first year for public charter schools in the District, there were two schools with one campus each serving approximately 160 students. For the 2007-2008 school year, there will be 57 charter schools on 77 campuses. Enrollment in charter schools has grown to 19,662 for the 2006-2007 school year; based on enrollment projections for the 2007-2008 school year, public charter schools will account for 28% of the District's public school students next year, assuming DCPS enrollment continues to decrease.

Public charter schools need appropriate educational space in which to operate. Public charter schools receive a per pupil facilities allotment that can be used to lease or purchase space, finance construction or renovation, and fund maintenance and repairs of existing facilities. Historically, charter schools have been unable to access traditional school buildings, instead leasing or purchasing commercial property space. In 2005, of the 64 campuses then in operation, 32 schools leased commercial space and another 12 schools purchased commercial property. In addition to the cost of leasing the property, commercial space typically requires significant investment to re-configure the space to meet the requirements of an educational environment. In 2005, charter schools paid over \$15 million in public dollars into the commercial real estate market. With the growth in campuses over the past two years, that amount likely has risen.

At the same time, the District has had an inventory of excess school facility space due to school system consolidations in the 1990s. Additionally, the school system has been struggling with the need to 'rightsize' in adjustment to several years of steadily declining enrollment. While this report does not address the issue of excess space in facilities currently under DCPS authority, it is a serious issue that requires attention and represents a significant opportunity both to enable DCPS to use its resources more efficiently and to enable public charter schools to have access to much-needed school space. This report represents an objective of the Fenty administration to develop an accelerated plan to make this unused school facility space available to public charter schools. The need for acceleration reflects not only a responsibility of the District to ensure that children are learning in educationally appropriate space, but also a recognition that public dollars are better used when they invested back into public agencies.

## Legal Requirements

In an effort to ensure that public charter schools have access to former DCPS school facilities, Congress amended the School Reform Act in 2004 to create a 'right of first offer' for public charter schools. As amended, the School Reform Act requires the District to give a 'right of first offer' to public charter schools for certain school properties before offering the properties to the general public for lease, transfer, sale, or use. The requirement applies specifically to school properties that were formerly under the jurisdiction of the Board of Education and that were "not previously purchased, leased, or transferred, or under contract to be purchased, leased, or transferred, or the subject of a previously proposed resolution submitted by the Mayor on or before December 1, 2004, to the Council of the District of Columbia seeking authority for disposition of such facility or property, or under an Exclusive Rights Agreement executed on or before December 1, 2004." D.C. Official Code § 38-1802.09(b)(1)(A).

According to the Office of Property Management (OPM), currently there are nine facilities in the District inventory that meet the above criteria:

- Reno
- Bundy
- Grimke
- Madison
- Petworth
- Blair
- Gales
- Hayes
- Old Emery

Except for the Reno school, all of the buildings are currently being used for other public purposes. The Office of the Deputy Mayor for Education (DME), acting on the policy priority of the Mayor to make school facilities available for public charter schools where appropriate, regardless of whether they fall under the Congressional requirement, worked with the OPM to identify a list of school buildings that could be made available as soon as possible. Those schools and the proposed actions are described below. It is the intent of the DME to explore making the other school facilities in the city inventory available to public charter schools in the future; however, because they are currently being used for other public purposes, this will require a more careful and longer planning process.

The 'right of first offer' requirement also stipulates that terms of the lease are to be negotiated by the Mayor in accordance with written rules and regulations as determined by the Mayor. D.C. Official Code § 38-1802.09(b)(1)(C)(2006 Supp.). These rules establish the parameters and conditions for negotiations, ensuring an equitable and transparent process.

Currently, the city is functioning without the required rules. It is the Mayor's intent to bring the city into compliance with all the conditions of the School Reform Act and to establish a fair and consistent process that can be utilized in the future. Therefore, before proceeding with a solicitation process (described below), the Office of Property Management will work with the Office of the Attorney General to develop the rules as required.

The law also requires that if the property is to be leased, the lease period must be at least 25 years, renewable for additional 25-year periods as long as the charter is maintained. D.C. Official Code § 38-1802.09(b)(1)(C). This requirement triggers Council approval of the lease, pursuant to District law. D.C. Official Code § 10-801.

Finally, through the course of developing the required rules, the Administration has identified numerous challenges associated with offering public buildings for use by public charter schools due to the run-down and potentially dangerous conditions of many of the buildings. Before offering them for use as classrooms for children, the Administration will conduct environmental and physical assessments that will inform the District as to the condition of the property, protecting the safety of the District's students and potentially shielding the District from possible economic consequences and personal liability. The environmental and physical assessment evaluation will govern the information presented to the public regarding any specific property.

### **Process for Leasing Facilities**

The Office of the Deputy Mayor for Education, Office of Property Management, State Education Office, and the Office of the Attorney General have collaborated to develop an efficient and legally sufficient process for which to offer school facilities from the Mayor's surplus inventory to the charter school community. For some schools, as noted below, this process has begun already. Once a school facility is available for use, the Executive Office of the Mayor (EOM) sends a pre-notice to the charter school community announcing the available facilities and the intent to release Solicitations of Offers. This gives the charter school community additional time to plan and prepare for the accelerated solicitation process. The pre-notice is also an opportunity for charter schools to visit the properties early in the process.

Concurrently with the notice given to OPM to make the school facility available, OPM will order environmental and physical assessments for facilities that do not have recent assessments on file. This is a new process for the District, but standard of the industry real estate practice. The exercise of assessing the facilities prior to issuing the solicitation helps ensure transparency and, more importantly, attempts to address environmental and safety issues up front, thereby

reducing the chances for reevaluation of the solicitation process later by the successful bidder. While the environmental and physical assessments are being completed, or after their receipt as the case may allow, OPM releases a Solicitation of Offers to the charter school community, which may include the environmental and physical assessment report. The solicitation outlines the requirements and conditions of a long-term lease, selection criteria, and the list of materials that need to be submitted with a response proposal.

OPM will prepare an evaluation summary for all solicitation responses obtained on a timely basis. The summary will analyze the responses to the Solicitation Forms returned, and assist reviewers to make decisions without prejudice. Once the summary is complete, a team made up of a diverse group of District government representatives will review the submissions that meet the requirements stated in the solicitation.

Upon selection of a specific respondent, the charter school will work with the Office of the Attorney General (OAG) to negotiate a lease. Once a lease is successfully negotiated, OPM will submit the disposition resolution and the lease to the Council of the District of Columbia for approval. The disposition resolution will state that the facility has been deemed surplus property and therefore must be offered to the charter school community. In an effort to expedite the process, the disposition and the lease will be submitted to the Council simultaneously.

Previously, the timeframe between the release of the Solicitation of Offers and reaching a negotiated lease was approximately twelve months. The DME, OPM, and OAG suggest that the process described above will shorten this timeframe by half.

### **Current Status of Surplus School Properties**

The following table reflects the status of certain surplus school properties in the Mayor's inventory and the plan for making those available to public charter schools. As mentioned previously, it is the intent of the Deputy Mayor for Education to work with the Office of Property Management to identify additional schools immediately after completing this initial offering so that the process for making school buildings available to public charter schools will be ongoing.

Typically there will not be more than one month between the pre-notice to the community and the release of the Solicitation of Offers. The timetables for the schools below, however, were subject to delays due to the need for the Administration to bring the city into compliance with the requirement to develop rules governing the process.

PROPERTY	ACTION	TIMELINE	STATUS
<b>Keene</b> 33 Riggs Road, NE	Issue Solicitation of Offer	Pre-notice Sent: <b>3/23/07</b>	Completed
		Environmental Assessment: <b>Ordered on 4/4/07</b>	In Progress
		Solicitation Issued: <b>TBD</b>	TBD
	Submit Disposition Resolution and Lease to Council for Approval	Submit Resolution & Lease to Council: <b>TBD</b>	TBD
<b>Langston/Slater</b> 33/45 P Street, NW	Issue Solicitation of Offer	Pre-notice Sent: <b>3/23/07</b>	Completed
		Environmental Assessment: <b>Ordered on 4/4/07</b>	In Progress
		Solicitation Issued: <b>TBD</b>	TBD
	Submit Disposition Resolution and Lease to Council for Approval	Submit Resolution & Lease to Council: <b>TBD</b>	TBD
<b>Reno</b> 4820 Howard Road, NW	Issue Solicitation of Offer	Pre-notice Sent: <b>3/23/07</b>	Completed
		Environmental Assessment: <b>Ordered on 4/4/07</b>	In Progress
		Solicitation Issued: <b>TBD</b>	TBD
	Submit Disposition Resolution and Lease to Council for Approval	Submit Resolution & Lease to Council: <b>TBD</b>	TBD
<b>Bruce</b> 770 Kenyon Street, NW	Finalize Lease	<b>9/1/07</b>	In Progress
<b>Langley</b> 101 T Street, NW	Finalize Lease	<b>9/1/07</b>	In Progress
	Submit Disposition Resolution and Lease to Council for Approval	Submit Resolution & Lease to Council: <b>9/4/07</b>	Scheduled
<b>Old Congress Heights</b> 600 Alabama Avenue, SE	Negotiating Lease	<b>TBD</b>	In Progress
<b>Rabaut</b> 100 Peabody Street, NW	Issue to SEO for Charter School Incubator		Completed